

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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EFRAIM BARENBAUM, IRA, derivatively on behalf
of Nominal Defendant FTE NETWORKS, INC.,

Plaintiff,

-against-

19 **CIVIL** 5913 (MKV)

JUDGMENT

MICHAEL PALLESCHI, FRED SACRAMONE,
JAMES SHIAH, CHRISTOPHER FERGUSON, LUISA
INGARGIOLA, BRAD MITCHELL, PATRICK
O'HARE, DAVID LETHEN, LYNN MARTIN,
JEANNE KINGSLEY, and STEPHEN BERINI,

Defendants.
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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Opinion and Order dated September 30, 2020, after a series of revelations of corporate misconduct by executives at FTE Networks, Inc., Plaintiff Ephraim Barenbaum, IRA, brought this action derivatively to recover on behalf of the company for that wrongdoing. In addition to the responsible actors, Barenbaum sued certain members of the FTE Board. However, Barenbaum's Amended Complaint fails to allege that demand on the now-existing FTE Board of Directors would have been futile, as he must, to have standing to bring a derivative case. As a result, the Amended Complaint is dismissed with prejudice. Alternatively, all claims against Defendants Sacramone, Shiah, Ferguson, Ingargiola, Mitchell, O'Hare, Martin, Kingsley, and Berini are dismissed pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim. Plaintiff's motion for judicial notice is granted. In summary, the motions to dismiss at ECF #59, 63, and 66 are granted with prejudice and the motion for judicial notice at ECF #99 is also granted; accordingly, this case is closed.

Dated: New York, New York

September 30, 2020

RUBY J. KRAJICK

Clerk of Court

BY:

Deputy Clerk